

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

United States of America,	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	
The States of Colorado, Louisiana, New Jersey,	)	
Oklahoma, and Texas,	)	
	)	
Plaintiff-Intervenors,	)	Civil Action No.: SA-05-CA-0569-OLG
	)	
v.	)	
	)	
Valero Refining Company, et al. and	)	
Tesoro Refining and Marketing Corporation,	)	
	)	
Defendants.	)	
	)	

**JOINT UNOPPOSED MOTION TO TERMINATE THE  
CONSENT DECREE AS TO THE VALERO REFINERIES**

Plaintiff the United States of America (“United States”) and Defendants Valero Refining Company – California, Valero Refining Company – New Orleans, Valero Refining Company – Oklahoma, Valero Refining – Texas, L.P., Ultramar, Inc., and Diamond Shamrock Refining Company, L.P. (collectively, “Valero”) (collectively, “Movants”), jointly move for termination of the Consent Decree entered herein (Doc. No. 37) as to the following ten (10) Valero-owned petroleum refineries: Ardmore Refinery, Corpus Christi West Refinery, Corpus Christi East Refinery, Houston Refinery, McKee Refinery, Texas City Refinery, Three Rivers Refinery, St. Charles Refinery, Wilmington Refinery, and Benicia Refinery (collectively, the “Valero

Refineries”).<sup>1</sup> Plaintiff-Intervenors the State of Louisiana, the State of Texas, and the State of Oklahoma (“Plaintiff-Intervenors”), support this motion.

1. On June 16, 2005, Plaintiff filed a Complaint in this action alleging claims under the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*, against Defendants Valero Refining Company (“Valero”) and Tesoro Refining & Marketing Company, Inc. (later renamed “Tesoro Refining & Marketing Company LLC”) (“Tesoro”) with respect to various petroleum refineries owned and operated by Defendants. (Doc. No. 1). Simultaneously, Plaintiffs lodged a Proposed Consent Decree with the Court settling the claims alleged in the Complaint. (Doc. No. 7).

2. On November 23, 2005, this Court signed and entered the formerly lodged Consent Decree settling the claims alleged in the Complaint. (Doc. No. 37).

3. The Consent Decree required the Defendants to undertake various injunctive and other measures at fourteen (14) petroleum refineries, including the Valero Refineries. (Doc. No. 37).<sup>2</sup>

4. Paragraphs 359 and 363 of the Consent Decree, respectively, establish the requirements and process for termination of the Consent Decree. Valero has satisfied the Consent Decree termination requirements with regard to the Valero Refineries, which it currently owns and operates.

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<sup>1</sup> While termination of the Consent Decree as to these refineries does not affect the non-moving State Plaintiff-Intervenors (Colorado and New Jersey), the United States consulted with their counsel and represents that those States do not object to the Joint Unopposed Motion to Terminate the Consent Decree.

The United States and Valero are concurrently filing a nearly identical motion to terminate the consent decree in the matter of *United States of America, et al. v. The Premcor Refining Group Inc., et al.* (No. SA-07-CA-0683 FB) as to the Valero (Premcor) Memphis and Port Arthur refineries.

<sup>2</sup> This Court terminated the Consent Decree as to the Tesoro Refining & Marketing Company LLC Martinez refinery on December 14, 2016 (Doc. No. 45) and the Alon Refining Krotz Springs, Inc. (formerly Valero Refining Company – Louisiana) refinery on October 2, 2017 (Doc. No. 50). The Consent Decree remains in effect for the Paulsboro, New Jersey refinery (now owned by PBF Energy) and the Denver, Colorado refinery (now owned by Suncor Energy).

5. By letter dated December 30, 2015 to the United States and Plaintiff-Intervenors the States of Louisiana, Texas, and Oklahoma, Valero certified compliance with the Consent Decree, requested the United States' consent to terminate the Consent Decree for the Valero Refineries, and provided documentation to demonstrate its compliance with the Consent Decree. *See Exhibit 1, Certification of Compliance (December 30, 2015).* The United States thoroughly reviewed all of the supporting materials submitted by Valero. By letter dated April 29, 2016, the United States objected to the termination of the Consent Decree. The United States and Valero worked together to resolve all alleged deficiencies.

6. Valero has satisfied all of the requirements for termination of the Consent Decree and has submitted the certification of compliance and completion required by Paragraph 363 of the Consent Decree.

7. No obligations of any other party to the Consent Decree, or for any other refinery covered by the Consent Decree, are affected by this partial termination as to the Valero Refineries.

Accordingly, because Valero has satisfied all requirements for termination of the Consent Decree as to the Valero Refineries, the Movants respectfully request that this Court grant this Joint Unopposed Motion to Terminate the Consent Decree as to the Valero Refineries.

Dated: January 17, 2018

Respectfully submitted,

JEFFREY H. WOOD

Acting Assistant Attorney General

Environment and Natural Resources Division

/s/ Scott M. Cernich

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 17, 2018, the foregoing JOINT UNOPPOSED MOTION TO TERMINATE CONSENT DECREE AS TO THE VALERO REFINERIES was served on counsel for the parties in the above captioned action through the ECF system.

Dated: January 17, 2018

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